

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DECAGON DEVICES, INC. a Washington )  
Corporation, and COASTAL )  
ADMINISTRATIVE SERVICES, INC., a )  
Washington Corporation )  
Plaintiffs, )  
v. )  
INTERNATIONAL ASSURANCE OF )  
TENNESSEE, INC., a Tennessee Corporation, )  
and AMERICAN FIDELITY ASSURANCE )  
COMPANY, an Oklahoma Corporation, )  
Defendants. )  
No. )  
DEFENDANTS AMERICAN FIDELITY )  
ASSURANCE COMPANY AND )  
INTERNATIONAL ASSURANCE OF )  
TENNESSEE, INC.'S NOTICE OF )  
REMOVAL )

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and without waiving any defenses, Defendants American Fidelity Assurance Company (“AFA”) and International Assurance of Tennessee, Inc. (“IAT”) respectfully remove the civil action filed against it by plaintiffs Decagon Devices, Inc. (“Decagon”) and Coastal Administrative Services, Inc. (“CAS”) from the Superior Court of Washington, County of Whatcom, to the Seattle Division of the United States District Court for the Western District of Washington.

## I. Removal is Proper Under 28 U.S.C. §§ 1441 and 1332

Under 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or

1 defendants, to the district court of the United States for the district and division embracing the  
2 place where such action is pending.” Each of these conditions is satisfied here.

3 **A. This Court has original jurisdiction over this action**

4 This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)  
5 because there is complete diversity of citizenship between Defendants, AFA and IAT, and  
6 Plaintiffs, Decagon and CAS, and Defendants have a good faith basis to believe the amount in  
7 controversy exceeds \$75,000.

8 Complete diversity exists in this matter. Decagon and CAS are Washington Corporations  
9 with their principal places of business in, respectively, Pullman and Bellingham, Washington.

10 **Attachment 1 (Complaint) at ¶ 1.1 & 1.2.** Neither Defendant is a citizen or resident of  
11 Washington. IAT is a Tennessee Corporation with its principal place of business in Tennessee  
12 and AFA is an Oklahoma Corporation with its principal place of business in Oklahoma.

13 Plaintiffs’ complaint sets forth a dollar amount prayed for. Plaintiffs’ complaint  
14 specifically prays for relief as follows:

15  
16 1. Judgment against American Fidelity for \$620,000.00 plus  
interest, attorney’s fees and costs in compensatory damages;

17 **Attachment 1** at p. 9.

18 Defendants deny that they caused Plaintiffs’ alleged damages, but the allegations clearly  
19 exceed the amount in controversy threshold of \$75,000.

20 **B. The Western District Embraces the Place Where the Action is Pending**

21 This notice of removal is properly directed to this Court pursuant to 28 U.S.C. § 1441  
22 because this Court is “the district court of the United States for the district and division” within  
23 which the state court action is pending. Pursuant to 28 U.S.C. § 128(b), Whatcom County,  
24 Washington, falls within the Western District of Washington, Seattle Division.

25 //

26 DEFENDANTS’ JOINT NOTICE OF REMOVAL- 2

**GORDON & POLSCHER, L.L.C.**  
1000 Second Avenue, Suite 1400  
Seattle, WA 98104  
Telephone: (206) 223-4226

1       **II. Removal is Procedurally Proper Under 28 U.S.C. § 1446**

2       Section 1446(a) provides:

3       A defendant or defendants desiring to remove any civil action from a State  
4       court shall file in the district court of the United States for the district and  
5       division within which such action is pending a notice of removal signed  
6       pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing  
7       a short and plain statement of the grounds for removal, together with a  
8       copy of all process, pleadings, and orders served upon such defendant or  
9       defendants in such action.

10       Pursuant to this requirement, Defendants filed herewith as **Attachment 1** a copy of  
11       plaintiffs' summons and complaint. Defendants also attach a complete copy of all other  
12       pleadings and documents filed in the underlying state court action to the Declaration of  
13       Stephanie Andersen, filed contemporaneously herewith, in compliance with the requirements set  
14       forth in LCR 101(b).

15       Defendants' notice of removal also satisfies the relevant portions of §1446(b). First, it is  
16       timely. Pursuant to § 1446(b)(1), a notice of removal in a civil action "shall be filed within 30  
17       days after the receipt by the defendant, through service or otherwise, of a copy of the initial  
18       pleading setting forth the claim for relief upon which such action or proceeding is based." Here,  
19       plaintiffs served AFA with the complaint through personal service on March 16, 2015. IAT was  
20       served no earlier than March 16, 2015. Defendants have filed this notice within 30 days after  
21       receipt of the complaint.

22       Second, the notice satisfies § 1446(b)(2). All served defendants hereby consent to  
23       removal and file this notice of removal jointly as evidence of such consent.

24       Finally, pursuant to § 1446(d), Defendants will file written notice of this removal with the  
25       clerk of the Superior Court of Washington for Whatcom County and, pursuant to § 1446(d) and  
26       LCR 101(b), will serve copies of the written notice and notice of removal to plaintiffs.

### **III. Intradistrict Assignment**

Pursuant to LCR 101 and 3(d), Defendants remove this action to the Seattle Division because the State Court action was filed in Whatcom County, Washington.

## IV. Conclusion

Defendants respectfully remove to this Court the civil action filed against it by plaintiffs in Case Number 15-2-00187-2 from the Superior Court of Washington for Whatcom County.

DATED this 13th day of April, 2015.

GORDON & POLSCER, L.L.C.

By: /s/ Stephanie Andersen

By: /s/ Ryan Hesselgesser

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Attorneys for Defendants American Fidelity  
Assurance Company & International Assurance of  
Tennessee

## CERTIFICATE OF SERVICE

I, Sibel Abreu, hereby certify that on April 13, 2015, I caused the above pleading to be served on the following:

## Attorney for Plaintiff Decagon Devices, Inc.

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## Attorneys for Plaintiff Coastal Administrative Services, Inc.

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and

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- E-mail

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct.

DATED this 13<sup>th</sup> day of April, 2015.

GORDON & POLSCER, L.L.C.

By: /s/ Sibel Abreu  
Sibel Abreu, Paralegal

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CERTIFICATE OF SERVICE - 6

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